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Mandatory System

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THE MANDATORY SYSTEM

By

FANNIE FERN ANDREWS, Ph.D.

Author of "The United States and the World" and "The World Family" in "A Course in Citizenship and Patriotism," "The Freedom of the Seas," "The Influence of the League of Nations on the Development of International Law."

PREFACE

Until the Paris Conference, there had been no attempt to reach a general understanding between the more powerful States regarding the betterment of the backward communities of the world. Before this, backward peoples had been governed or exploited by some Power for its own interest, and whatever good came to the natives from such government had been merely incidental. The rivalry among the Powers to get control of the undeveloped and backward areas of the world has always been a source of friction which often has resulted in war. The methods of governing these backward regions have been at times so bad that general protests against the system have issued from all parts of the world. Before the war closed, there was a general agreement among the Allied and Associated Powers that the German colonies and the dependent peoples under Turkish sovereignty should no longer remain under their old rulers. At the Peace Conference it was agreed that the old regime should go, and that there should be substituted for it a system by which the welfare of the peoples should be the chief principle in the government of these territories. Article 22 of the Covenant of the League of Nations is the expression of this agreement. This action of the Peace Conference not only changes the purpose in the government of backward and dependent peoples, but extends the responsibility for their welfare beyond the particular States which assume the responsibility of governing. The well-being and the development of such peoples form "a sacred trust of civilization"; the League of Nations becomes the medium through which this trust is fulfilled.

This thesis includes the history of the mandatory principle, from its first expression in the published war aims and peace proposals of the World War, to the close of the third meeting of the Assembly of the League of Nations. It thus sets forth information, showing (1) the obligation to accept the mandatory principle in the peace settlement; (2) the measures taken by the Peace Conference to establish the Mandatory System; (3) the process of putting the system into operation, both by the Mandatories and the League of Nations.

The author has drawn from official sources wherever possible, and, for the sake of accuracy and the convenience of the reader, has inserted, as far as space permitted, the texts of proceedings, letters, notes, treaties, pertaining to the particular discussion at hand. Many important documents were obtained by the writer while attending the Peace Conference, and through the courtesy of the Librarian of the League of Nations, the writer has been able to use almost the complete set of publications issued by the League, pertaining to mandates.

Besides giving this consecutive account of the Mandatory System, covering the period mentioned, the author has discussed rather fully the historical basis of the System, under five groupings: Suzerainties, Protectorates, Non-Christian States, the Central American States, and the Philippine Islands.

The thesis includes rather a full discussion of sovereign rights in mandated territories; opinions are cited on the subject and a conclusion is reached by the author.

Instances are given which show a tendency to extend the principles of the Mandatory System to other areas of backward and dependent peoples, and the final conclusion is reached that the success of the System is dependent on public opinion to see that the civilized world keeps faith with the inhabitants of mandated territories.

To each chapter is appended a summary. These summaries taken together include a consecutive account of the inception, adoption and operation of the Mandatory System, together with a discussion of the historical basis of the System, its legal status in the political practice of nations, and a final appeal for an active, intelligent and high-minded public opinion to make the Mandatory System a permanent part of the political doctrine of the world.

F. F. A.

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CHAPTER I

Fundamental Principles of the Mandatory System Expressed in the Statements of War Aims and Peace Proposals of the World War

CHAPTER II

The Historical Growth of the Ideas Which Led to the Acceptance of the Mandatory Principle

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The Acceptance of the Mandatory Principle at the Peace Conference

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BRIEF SUMMARY

The mandatory principle was first expressed in the published war aims and peace proposals of the World War; it was also found in the programs of the various groups of people who were working for a just and durable peace after the war. The published war aims and peace proposals, of which the most famous was the Fourteen Points, publicly acknowledged the obligation to settle the question of the German colonies on the basis of the interests of the populations concerned, and also to ensure the dependent peoples of Turkey an opportunity for autonomous development. The fourteenth of the Fourteen Points also proposed administrative machinery through which these two problems could be solved. Near the close of the war there appeared a well-worked out project for putting the mandatory principle into effect. The words mandate and mandatary were then used in this connection for the first time, and the project became known as the mandatary plan of General Smuts.

The Peace Conference, though after long and at times acrid discussion, accepted a program for the establishment of the Mandatory System. This is embodied in Article 22 of the Treaty of Versailles. Before the Peace Conference was over, the Supreme Council allocated the German colonies to the Mandatories with the understanding that they were to govern according to the conditions laid down in Article 22. Two months after the Peace Conference closed, the Principal Allied Powers at San Remo allocated the territories of the dependent peoples of Turkey.

During the summer of 1919, a Commission, appointed by the Peace Conference, met in London and formulated the terms of the mandates, dividing them into three classes—A, B and C— the A representing the three Turkish territories—Mesopotamia, Palestine and Syria; B, the African colonies of Germany—Togoland, the Cameroons, and East Africa; and C, the German Pacific Islands north and south of the equator, and German South-West Africa.

On December 17, 1920, the Council of the League of Nations approved the terms of the C mandates, but not until July 24, 1922, were the terms of the A mandates approved. The Permanent Mandates Commission has held two meetings, and has examined the annual reports submitted to it by the Mandatories. The Commission has presented to the Council of the League of Nations their comments on these reports, which are for the most part favorable, and they have also presented the results of their study concerning the status of the inhabitants of the mandated territories. The thoroughness with which the Commission is working is indicated by the questionnaires which it has sent to the Mandatory Powers. These questionnaires cover every important consideration in the administration of mandated regions. The cordiality with which the Powers have received the suggestions of the Council augur the success of the Mandatory System.

This thesis gives a consecutive account of the inception, adoption and operation of the Mandatory System, from the first statements of the mandatory principle in the published war aims and peace proposals of the World War to the close of the third meeting of the Assembly of the League of Nations. The author has drawn from official sources wherever possible, and, for the sake of accuracy and the convenience of the reader, has inserted, as far as space permitted, the texts of proceedings, letters, notes, treaties, pertaining to the particular discussion at hand. Many important documents were obtained by the writer while attending the Peace Conference, and through the courtesy of the Librarian of the League of Nations, the writer has been able to use almost the complete set of publications issued by the League, pertaining to mandates.

Besides giving this consecutive account of the Mandatory System, covering the period mentioned, the author has discussed rather fully the historical basis of the System, under five groupings: Suzerainties, Protectorates, Non-Christian States, the Central American States, and the Philippine Islands. The study presented instances of political practice which contain features similar to those in the terms of the mandates, although used under different conditions and with different intent. The ideas, however, such as freedom of conscience, have been historically registered. The study disclosed that under the Organic Act, passed for the

Philippine Islands by Act of Congress, August 29, 1916, this dependency parallels more closely than other cases cited the position of the territory under Class A mandate, while the survey produced no instance where the primary object of the vassal, the protecting State or group of States, was to govern for the welfare of the inhabitants, the nearest approach to this being Cuba.

The author discussed the question of sovereign rights in mandated territories, and opinions were cited on this subject. With respect to sovereignty, the conclusion of the thesis is as follows: Sovereignty over the mandated territories resides in the Principal Allied and Associated Powers. In the case of the B and C mandates, the sovereignty is retained until those Powers renounce their title to the territories which they received by Article 119 of the Treaty of Versailles; in the case of the A mandates, by Article 22 of the Treaty of Versailles, until the territories are "able to stand alone." The situation is explained further: Sovereignty over certain territories has been transferred by treaty to the Principal Allied and Associated Powers. These Powers have conveyed on certain States the power to govern those territories, but under restriction. The States must govern according to the conditions laid down by the Principal Allied and Associated Powers in Article 22 of the Treaty of Versailles, and also according to rules, aimed to carry out in detail the provisions of Article 22, which the Mandatory may make for itself, but subject to the approval of the League of Nations, which in turn receives its authority from the Principal Allied and Associated Powers. The Mandatory will govern on behalf of the League of Nations, and will render an annual report to that body. Both the Mandatory, then, and the League of Nations receive their authority from the Principal Allied and Associated Powers. At the same time, however, the Mandatory is subject to restrictions from a State (United States) outside the League of Nations, which shares in the sovereignty of the mandated territories, and which took part in the allocation of the C and B mandates. The Mandatory Powers have accepted this restriction as far as concerns the islands north of the equator, the African mandates and Syria and Palestine, although no acknowledgment of this right to intervene in the determination of the rules under which the mandated territory is to be governed

or in the actual administration of the territory has as yet been made with regard to the islands south of the equator or to Mesopotamia (Iraq).

Some of the principal criticisms of the Mandatory System are recorded, most of which are lacking in the comprehension of the intent of the System. Instances are given which show a tendency to extend the principles of the System to other areas of backward and dependent peoples.

The conclusion is given that the success of the Mandatory System depends on the sincerity with which the Mandatories fulfil their obligations. The writer points out the importance of public opinion, and says that the care with which the League of Nations has published and circulated the various letters and memorials which have been submitted to it by such organizations as the League of Nations Union, the Anti-Slavery and Aborigines Protection Society, the Native Races and the Liquor Traffic United Committee, the Palestinian Arab Congress, etc., shows a respectful response to public opinion.

The writer emphasizes that the responsibility for good administration in mandated territories is shared not only by the Principal Allied and Associated Powers, the Mandatories, and the League of Nations, but by the general public in all countries. The words with which the writer summed up the appraisal of the System, as spoken by Reginald Berkeley, are as follows: "What has been achieved is the universal recognition of the duty of the civilized races to their uncivilized or less civilized brothers; and this marks a notable advance in the political development of the world."